

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DOC #:  
DATE FILED: 3/11/2008

HILLARY WHITE and LYNN MICHALSON,  
individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

AURORA DAIRY CORPORATION,  
d/b/a Aurora Organic Dairy,

Defendant.

07 CIV 9418 (DAB)

STIPULATION TO  
TEMPORARILY SUSPEND  
PRE-TRIAL PROCEEDINGS

Defendant Aurora Dairy Corporation, d/b/a Aurora Organic Dairy ("Defendant" or "Aurora") and Plaintiffs Hillary White and Lynn Michalson ("Plaintiffs") (collectively, the "Parties"), by and through their attorneys, hereby stipulate and agree to temporarily suspend pre-trial proceedings in this matter. For the reasons set forth below, the Parties stipulate to a suspension of all pre-trial proceedings, including any obligation of Aurora to answer or otherwise plead, pending resolution of the Conditional Transfer Order issued by the Clerk of the Judicial Panel on Multidistrict Litigation ("Multidistrict Panel"), transferring and consolidating this action with the consolidated proceedings In re Aurora Dairy Corp. Organic Milk Marketing and Sales Practices Litigation.

**STIPULATION**

1. The above-captioned action is one of nineteen actions filed against Aurora and/or several retailers who sell Aurora's organic milk. See Dkt # 6 (Aurora's Local Rule 1.6 Notice Of Pendency Of Other Actions Or Proceedings). These actions have been the subject of various motions filed before the Multidistrict Panel requesting transfer and consolidation pursuant to 28 U.S.C. § 1407.

2. In light of the proceedings before the Multidistrict Panel, on December 31, 2008, the Parties moved this Court for an extension of time for Aurora to answer or otherwise plead.

See Dkt # 4 (Dec. 31, 2007 Stipulation Extending Time To Answer Or Otherwise Plead In Response To Plaintiffs' Complaint). At present, the Court has not yet officially entered the Parties' December 31, 2007 Stipulation.

3. Subsequently, on February 20, 2008, the Multidistrict Panel issued an order transferring and consolidating four of the above-referenced actions -- Freyre, et al. v. Aurora Dairy Corp. (D. Colo.); Still, et al. v. Aurora Dairy Corp. (D. Colo.); Fiallos v. Aurora Dairy Corp. (S.D. Fla.); and Mothershead, et al. v. Aurora Dairy Corp. (E.D. Mo.) -- in the Eastern District of Missouri. See Transfer Order, Ex. A hereto at 2-3. In addition, the Multidistrict Panel identified eleven other actions -- including this action -- as "potential tag-along" actions. See id. at 1, n. 1. Accordingly, on February 26, 2008, the Clerk of the Multidistrict Panel issued a Conditional Transfer Order for this and the other previously identified "potential tag-along" actions. See Conditional Transfer Order, Ex. B hereto at 3.

4. Given that the Multidistrict Panel issued a ruling on February 20, 2008, the stipulated time for which Aurora is to answer or otherwise plead is now March 11, 2008. See Dkt # 4 (Dec. 31, 2007 Stipulation Extending Time To Answer Or Otherwise Plead In Response To Plaintiffs' Complaint).

5. On March 4, 2008, in light of Aurora's deadline and both the Transfer Order and the Conditional Transfer Order issued by the Multidistrict Panel, counsel for Defendant discussed with counsel for Plaintiff the appropriateness of seeking an order from this Court extending Aurora's time to answer or otherwise plead and further suspending pre-trial proceedings. The Parties agreed to jointly seek an order from the Court to suspend any further pre-trial activity.

6. In light of the pending transfer and consolidation of this matter in the Eastern District of Missouri, the Parties agree that the Court should further postpone Aurora's time to

answer or otherwise plead and further suspend any pre-trial proceedings in this matter pending the resolution of the Conditional Transfer Order issued by the Clerk of the Multidistrict Panel, transferring and consolidating this action with the consolidated proceedings In re Aurora Dairy Corp. Organic Milk Marketing and Sales Practices Litigation. See, e.g., Rosenfeld v. Hartford Fire Ins. Co., Nos. 88 Civ. 2153 (MJL), 88 Civ. 2252 (MJL), 1988 WL 49065, at \*1 (S.D.N.Y. May 12, 1988).

7. The parties hereby STIPULATE AND AGREE that the deadline for Aurora to answer, move or otherwise respond to the Complaint be extended and the Court further suspend pre-trial proceedings pending the resolution of the Conditional Transfer Order issued by the Clerk of the Multidistrict Panel, transferring and consolidating this action with the consolidated proceedings In re Aurora Dairy Corp. Organic Milk Marketing and Sales Practices Litigation.

Dated: New York, New York  
March 10, 2008

LATHAM & WATKINS LLP

By: 

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LOVELL STEWART HALEBIAN LLP

By: /s/

Jody R. Krisiloff (signature page attached)

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Attorney for Plaintiffs  
Hillary White and Lynn Michalson

SO ORDERED:

By: \_\_\_\_\_

HON. DEBORAH A. BATTS  
U.S.D.J., United States District Court for the  
Southern District of New York

Dated: \_\_\_\_\_

Mar-10-2008 12:33 From-LSHLLP

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answer or otherwise plead and further suspend any pre-trial proceedings in this matter pending the resolution of the Conditional Transfer Order issued by the Clerk of the Multidistrict Panel, transferring and consolidating this action with the consolidated proceedings In re Aurora Dairy Corp. Organic Milk Marketing and Sales Practices Litigation. See, e.g., Rosenfeld v. Hartford Fire Ins. Co., Nos. 88 Civ. 2153 (MJL), 88 Civ. 2252 (MJL), 1988 WL 49065, at \*1 (S.D.N.Y. May 12, 1988).

7. The parties hereby STIPULATE AND AGREE that the deadline for Aurora to answer, move or otherwise respond to the Complaint be extended and the Court further suspend pre-trial proceedings pending the resolution of the Conditional Transfer Order issued by the Clerk of the Multidistrict Panel, transferring and consolidating this action with the consolidated proceedings In re Aurora Dairy Corp. Organic Milk Marketing and Sales Practices Litigation.

Dated: New York, New York  
March 10, 2008

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Attorney for Plaintiffs  
Hillary White and Lynn Michalson

SO ORDERED:

By: Deborah A. Battis  
HON. DEBORAH A. BATTIS  
U.S.D.J., United States District Court for the  
Southern District of New York

Dated: 3/11/08